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Cont

32. A cover as set forth in claim 28 wherein said top side includes metallized polyethylene.

REMARKS

Claim 8 has been rejected under 35 U.S.C. 112 as the claim includes the trademark "ZIP-LOCK". This claim has been amended to substitute "hook and loop". With such amendment, the basis for the rejection under 35 U.S.C. 112 is vitiated. Accordingly, withdrawal of this rejection is respectfully requested.

Claims 1-3, 5-9, 14, 15 and 17-20 have been rejected under 35 U.S.C. 102(b) as being anticipated by the disclosure contained in the Rodriguez patent. It may be well to note that a rejection under 35 U.S.C. 102(b) requires that each and every element recited in the claim be disclosed in the cited reference. The Rodriguez patent is directed to an article of clothing for covering some body parts of a person with an article of clothing made of material non-transmissive to electromagnetic radiation. This article of clothing essentially covers the torso of a user but not the head, arms and legs.

Claim 1 now recites apparatus for enclosing a treatment applicator comprising a cover having certain recited features. As is self evident, the Rodriguez article of clothing does not enclose a body and certainly is not used for the purpose of enclosing a treatment applicator. Furthermore, the cover is recited as comprising RF shielding material forming a portion of the cover but not the whole cover. On the other hand, the Rodriguez article of clothing is made

totally of electromagnetic non-transmissive material (RF shielding material).

Accordingly, one must come to the inescapable conclusion that Claim 1 recites subject matter not anticipated by any teaching contained in the Rodriguez patent. Accordingly, withdrawal of the rejection under 35 U.S.C. 102(b) of Claim 1 and Claims 2-3, 5-9 and 14 depending therefrom is respectfully requested.

With respect to independent Claim 15, it recites apparatus for enclosing a treatment applicator comprising a cover having certain elements and at least one strip of RF shielding material removably connected to the cover. For reasons set forth above, the Rodriguez article of clothing does not enclose the body but simply covers the torso of the body. Furthermore, there is no teaching in the Rodriguez patent for a strip of RF shielding material removably connected to the cover since the whole of the Rodriguez article of clothing is of electromagnetic radiation non-transmissive material.

Accordingly, Claim 15 recites subject matter not disclosed in the Rodriguez patent. Accordingly, Claim 15 is allowable. Claims 17 and 18 depend from Claim 15 and are similarly allowable.

Claim 19 is an independent claim reciting an RF generating system, a cover and an applicator located and enclosed within the cover. No such teachings can be found in the Rodriguez patent. Accordingly, withdrawal of the rejection under 35 U.S.C. 102(b) of Claim 19

is respectfully requested. As Claim 20 depends from Claim 19, it is similarly allowable.

Claims 1, 4, 6 and 12-14 have been rejected under 35 U.S.C. 102(b) as anticipated by certain teachings contained in the Cadwalader patent. The Cadwalader shield is intended for and directed to a covering to go about certain body parts to protect underlying tissue from injury due to radiation. The Cadwalader shield serves in the manner of a cover but not in the manner of an enclosure for enclosing therewithin the subject matter to be protected against radiation.

As set forth above, Claim 1 has been amended to recite the invention as a cover for enclosing a treatment applicator. Such teaching is totally absent from the Cadwalader patent. That is, the Cadwalader shield is completely incapable of enclosing the element sought to be protected against radiation; instead, it serves as a shield to protect against radiation from a specified direction. Accordingly, Claim 1 recites subject matter not taught in the Cadwalader patent. Accordingly, withdrawal of the rejection of Claim 1 under 35 U.S.C. 102(b) is respectfully requested.

As Claims 4, 6 and 12-14 depend from Claim 1, these claims are similarly allowable and it is respectfully requested that the rejection of these claims under 35 U.S.C. 102(b) based upon the Cadwalader patent be withdrawn.

Claims 1, 6, 7, 11, 15 and 16 have been rejected under 35 U.S.C. 102(b) as anticipated by certain teachings contained in the Tone patent. The Tone patent is directed to a vest to be worn

by a user to protect the upper torso of the user against electromagnetic radiation. Variants of the apparatus for use as a skirt, a cap, a coat or the like are also disclosed. None of these items enclose the article (body) to be protected but only a part thereof.

Claim 1 recites a cover for enclosing a treatment applicator. Such teaching is totally absent from the Tone patent. Accordingly, the rejection of Claim 1 under 35 U.S.C. 102(b) must be withdrawn. Claims 6, 7 and 11 depend from Claim 1. With the allowance of Claim 1, the rejection of these claims must be withdrawn.

Claim 15, an independent claim, recites a cover for enclosing a treatment applicator. As the articles of protective clothing taught in the Tone patent do not enclose the article (body) to be protected, the rejection under 35 U.S.C. 102(b) based upon Tone must be withdrawn. As Claim 16 depends from Claim 15, the rejection thereof must also be withdrawn.

Claim 10 has been rejected under 35 U.S.C. 103 as reciting subject matter obvious over certain teachings contained in the Rodriguez patent. Claim 10 depends from Claim 1. For reasons set forth above, Claim 1 is not anticipated by the Rodriguez patent nor can the teachings contained in the Rodriguez patent be construed to enclose the article to be protected, as recited in Claim 1. Accordingly, as Claim 1 recites subject matter not obvious over any teachings contained in the Rodriguez patent, Claim 10 depending from Claim 1, cannot be construed as reciting subject matter obvious over any teachings contained in the Rodriguez patent.

In view of the amendments to Claims 1-3 and 5-20 to more particularly point out and distinctly claim the invention in combination with the above discussion of the three references applied, it is respectfully requested that Claims 1-20 be allowed.

New Claims 21-27 are method claims reciting use of the cover to enclose the treatment applicator while providing the capability for irradiating tissue to effect a treatment procedure and to protect an operator from RF radiation. As the subject matter of these method claims is so far removed from the subject matter and operation thereof of the devices disclosed in the references applied by the Examiner, no discussion pertinent thereto need be undertaken. Accordingly, Claims 21-27 recite methods which cannot be derived from any teachings of the applied prior art. Allowance of these claims is respectfully requested.

Claims 28-32 are apparatus claims reciting features of the cover for enclosing an RF radiating applicator. None of the prior art discloses electromagnetic shields structurally or functionally equivalent to the structure recited in Claims 28-32. Accordingly, allowance of Claims 28-32 is respectfully requested.

In view of the amendments to the claims to more particularly point out and distinctly claim the invention, the new method and apparatus claims submitted herewith, the discussion of the pertinent parts of the prior art applied by the Examiner and the resolution of the rejection based upon 35 U.S.C. 112, it is respectfully submitted that the application is in condition for allowance, which allowance is respectfully requested.

Attached hereto is a marked-up version of the changes made to Claims 1-3, 5-9 and 11-20 by the current amendments. The attached page is captioned **"Version with markings to show changes made"**.

Charge any additional fees or credit overpayment to Deposit Account No. 03-0088. This document is submitted in **DUPLICATE**.

Respectfully submitted,

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS:

1. (Amended) An apparatus for enclosing [covering] a treatment applicator comprising a cover having a front surface, a back surface, and at least one open end and RF shielding material forming [, wherein at least] a portion of said cover [is constructed of an RF shielding material].

A1
2. (Amended) Apparatus according to claim 1, wherein said back surface of said cover includes [is constructed of] said RF shielding material.

3. (Amended) Apparatus according to claim 2, wherein at least a portion of said front surface includes [of said cover is constructed of] said RF shielding material.

5. (Amended) Apparatus according to claim 1, including [further comprising] at least one adhesive strip located on said front surface.

6. (Amended) Apparatus according to claim 1, including [further comprising] means for closing said open end of said cover.

A2
7. (Amended) Apparatus according to claim 6, wherein said closing means [further] comprises a tab extending from said front surface and means for securing said tab to said back surface.

A2
cont

8. (Amended) Apparatus according to claim 7, wherein said closing [securing] means is selected from the group consisting of adhesive, mating fasteners and mating hook and loop [ZIP-LOCK®] strips.

9. (Amended) Apparatus according to claim 7, wherein said tab includes [has] an opening located therein.

11. (Amended) Apparatus according to claim 7, including [further comprising] perforations located along said tab.

A3

12. (Amended) Apparatus according to claim 6, wherein said closing means [further] comprises a tab extending from said back surface and means for securing said tab to said front surface.

13. (Amended) Apparatus according to claim 6, wherein said closing means [further] comprises a first tab extending from said front surface, a second tab extending from said back surface, and means for securing said first tab to said second tab.

14. (Amended) Apparatus according to claim 1, wherein said cover is of waterproof and bacterial resistant material.

15. (Amended) An apparatus for enclosing [covering] a treatment applicator comprising

a cover having a front surface, a back surface, at least one open end, and at least one strip of RF shielding material removably [removable] connected to said cover.

16. (Amended) Apparatus according to claim 15, wherein said front surface is made of a non-RF shielding material, [wherein] said at least one strip overlying [overlies] said front surface, and [wherein] said at least one strip comprising [further comprises] a perforated strip.

17. (Amended) Apparatus according to claim 15, wherein said at least one strip is removably adhered to said [the] front surface.

18. (Amended) Apparatus according to claim 15, wherein said at least [lest] one strip [further] comprises multiple strips, each of said multiple strips being adhered to the front surface of said [the] cover and separably removable from said cover [therefrom].

19. (Amended) An electromagnetic treatment apparatus comprising an RF generating system, a cover, and an applicator connected to said RF generating system and enclosed [located] within said cover, [wherein] said cover comprising [further comprises] RF shielding material adapted to introduce [that conveys a] capacitance to [upon] circuitry of [in] said applicator.

20. (Amended) Apparatus according to claim 19, wherein said applicator only enables said RF generating system when said applicator is located within said cover and when the [a] capacitance of said applicator in combination with the capacitive effect of said [and] cover is

A3
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within a predetermined range.
